

THE LAND FRAUDS.

From the Logansport Phoenix, of Feb. 9.

Reply to Austin W. Morris.

It becomes me to reply to the communication of A. W. Morris, published in the Indiana State Journal of the 6th of February. I might as well say at the commencement of my communication, that Mr. Morris has always professed to me the highest personal regard, and all his malice against me is founded on the fact that I prevented him from consummating a most daring fraud.

But a few weeks since, Mr. Morris spoke of me to a mutual friend, in such terms, both as a man and a judge, as would be highly complimentary to any man, if they had emanated from an honest man.

Mr. Morris, in his communication, attempts to justify his acts under the law of 1843—but that law never covered the lands he attempted to enter.

The lands Mr. Morris attempted to enter were of the original selections and were governed by the law of 1830; whilst the law of 1843 covered the future selections (known as "blue dog" lands). The difference in these laws is easily perceived. The law of 1830 provided for the sale of the lands then selected by paying one fourth of the purchase money, and the balance in 1847, and the interest annually; and in case the interest was not paid, the land was to be forfeited. By subsequent acts of the legislature, the holders of these lands were authorized to redeem them on payment of a certain per cent. on the interest, which per cent. has been reduced from 100 down to 10, by different acts of the legislature.

Under the construction placed on these acts by the commissioners (which was that the penalty only attached to the first year's interest—and that the interest did not bear interest)—many persons preferred to pay the entire amount on one tract, and to permit the interest to accumulate on the others until able to pay both principal and interest. This will be found to be a considerable saving to the land holders, and this is the reason why much of this land is in default of the large portions of the purchase money. Some of the persons who have entered these lands, and most of them will be before 1847, no person ever supposed this class of lands would be subject to entry for non-payment of interest until Mr. Morris's visit to Peru. Opinion was founded on the law, and on the action of the legislature, that these lands, since these large portions of the purchase money were paid, and Samuel Ward, situated in this county, advertised and publicly sold it, at a considerable advance. Ward became the purchaser, and the succeeding legislature passed an act for his relief refunding him the surplus made on the second sale over what was due on the first sale, and confirming his title under the first sale. This act confirmed the holders in the opinion that the land could not be sold without further legislation. But does not the act of 1843 provide for their entry? It does not.

The first section on page 267, which is section 25 provides: "That the future selections of lands, to be known as 'blue dog' lands, and lands east of Tippecanoe, and the law of 1843 all the 'Blue Dog' lands, or lands west of the Tippecanoe, and some few tracts of 'White Dog' lands. On the 'Blue Dog' lands, no forfeiture could occur before November 1843, but few, if any, were delinquent, and if these lands had been entered, the officers could not be censured as the law is imperative and the holder of lands aware of its provisions.

Such were the laws governing these lands at the commencement of the legislature. The law of 1830 covering all the original selections, and the law of 1843 the lands selected since that time.

At the last session a law was passed covering all these lands—reducing the penalty of redemption to 10 per cent., extending the time of payment on the balance of the principal for five years;—and providing that where the lands were forfeited for non-payment of interest they should be advertised and sold as lands are sold for taxes.

By the provisions of the "Butler bill" the time of payment of the principal was also extended five years. Both of these laws were approved on the 19th of January.

On the next day Morris's bill is approved, attempting to repeal the provision, as to the lands, in both of the last mentioned laws. It was intended to extend the provisions of the 21st-19-20th sections of page 267 B. C. to the "White Dog" lands. But no court had given it such a construction, it being an amendment to the act of 1843, which only covered future selections.

But a design of the rascals was to get the fine farms, houses, mills, &c., on the Wabash—which are worth from \$20 to \$100 per acre, and some of which are five years since, at \$50 per acre—at \$1 25 per acre, on "White Dog."

Morris purchased one tract—owned by Tipton's heirs, which was purchased by Gen. Tipton at \$33 per acre—at \$1 25, and there was due the State, from Tipton's heirs, three-fourths of the original purchase money.

This is killing two birds with one stone; cheating Tipton's heirs and cheating the State. Such is the construction placed on this famous law by this A. W. Morris. A law to seize the lands of the widow, or the orphan, and unsuspecting farmer, and to give them to a set of rascals at a nominal price, and that under pretence of relief. I think any person can perceive the rascality of these rascals.

I shall now attend to Mr. Morris personally. I do not claim to be the only man on earth who is a villain, but I claim to be the only man who is a villain and a hypocrite. Morris, as intimated by Mr. Morris and his friends Lucas, or to have the influence they are willing to yield me. I had no lot or part in the Fort Wayne meeting, where some of the first men of the State, including Gov. Bigler, endorsed the Peru meeting; and placed the mark of Cain on your forehead. There is one thing for which I am famous, and that is, speaking and writing what I think and know, and that I shall now do.

I have no doubt Mr. Parker of Fort Wayne, is an honest man, and that you deceived him in the provisions of your law—be being your personal and political friend, and I have no doubt Col. Reynold will say that every word you state about him is utterly false.

Morris denies that his visit to Peru was to enter lands, with the exception of Dr. Canby's lands—which he wished to enter to cheat the "Blue Dog" lands—but says that it was to pay interest. I ask, why was John Fitzgerald stated that Morris was the owner, but that it would not do for him to take the certificates, as it would be unpopular. Why did Morris seal the certificates from Smith, and what excuse did he give for his conduct?

But all circumstantial testimony may be laid aside, in relation to the interest of Morris in the transaction. On Friday night last, John Yopet, of Peru, arrived in Logansport, with the following advertisement, to get it printed at the Telegraph office. Morris is not at Peru, but John D. Deffres, his brother-in-law, is there as his agent:

"Stop the Secondment!"
"Jonathan R. Smith, clerk in the land office, runs away on the 5th inst., taking with him a large amount of seal copy (called 'White Dog') belonging to many individuals who had deposited it with him to be applied to the payment of principal and interest on the lands, together with a large amount belonging to the State of Indiana. The public are hereby cautioned against the purchase of such description of money from Smith, as its numbers are known, and an injunction will be forthwith issued to the Superintendent, enjoining him from redeeming the same. The undersigned will give a reasonable reward for the apprehension of said Smith."

"The said Smith is about five feet one inch high, dark hair, dark eyes, wears a black coat, and is about one hundred and sixty pounds. Persons wishing to communicate any information in regard to Smith, will address a letter to John Fitzgerald, at Delphi."

A. W. MORRIS.
"Peru, February 6, 1846."

But while the above notice was in the hands of the printer, the following was received by Mr. Yopet:
"Peru, Feb. 6, 1846."

JOHN FITZGERALD.
"Dear Sir:—If you do not find Smith when you get to Logansport, you will hold on to that publication, as we think we can make a compromise with him, and in an hour or two we will have him in our hands. Yours, &c."

Is any more testimony wanted to show the interest of Morris? What a deep interest for the welfare of the State! Finding their certificates worthless, they begin to call each other sounders.

Col. Lucas and Mr. Morris do not agree in any material facts in their published statements. It is not necessary to allude to them, as public opinion has already condemned them.

But I have some more evidence, and as it is the best it could be brought in last. Here is your agreement with John Fitzgerald, and M. H. Milford (Lucas's clerk in the Delphi land office), and I defy the contradiction of Mr. Morris as to its authenticity:

ARTICLE OF AGREEMENT made and entered into by and between Austin W. Morris, of the county of Marion, and Milton H. Milford and John Fitzgerald, of the county of Carroll, and State of Indiana.

WITNESSETH: That the above named Morris, Milford and Fitzgerald, have this day formed a co-partnership for the purpose of entering for their joint use and benefit any forfeited Wabash and Erie Canal land, at the Peru land office, which may be subject to entry, on the following conditions, and in the following manner:

"1. It is agreed that said land, so entered for the joint use of the three, shall be entered in the name of the above named John Fitzgerald."

"2. It is agreed, in dividing the same, that they shall be equal partners and share alike, as far as their means are equal; and that out of the whole quantity thus entered the division shall be first among the three, on an equal basis, and in the time the sum advanced by the lowest partner; afterwards the division shall be made between the other two, on a sum equal to twice the amount of the next lowest partner, and thus to divide the amount of the next lowest partner, and thus to divide the amount belonging to the partner advancing the greatest sum."

"3. Before dividing said land, so to be entered, it is agreed that they shall be rated, or valued, by the three, and in case of disagreement, any two shall decide as to the value of any tract."

"4. It is agreed that after rating the same as to be entered, as for choice of tracts, or any other method of rating, any two of them may be agreed to by all three."

"5. It is agreed that the land thus to be entered shall be paid for in cash, and final certificates and patents shall be in the name of said John Fitzgerald, and that he shall be deemed the particular tracts which may fall to either in the division aforesaid."

"6. It is agreed by the parties, that in the event either of them shall die, or become incapacitated, or in any way be prevented from entering the land, the same shall be sold, the expenses attending any such litigation shall be borne by all three, in proportion to the amount advanced by each of them."

"7. For the true and faithful performance of all and every part of this article, the parties mutually bind themselves, their heirs, and assigns, and to each other, in the penal sum of \$5,000."

"Witness our hands and seals, this 19th Jan. '46."

(Signed) A. W. MORRIS.

M. H. MILFORD.

JOHN FITZGERALD.

The above, with a letter from Gov. Whitcomb to Stearns Fisher, and one from H. J. Harris to J. R. Smith, was found on the canal tow-path, having been taken and sent to me, and the original, and the letters, sent to Peru. No interest in those purchases! The lie is branded on your forehead!

Had you any feeling of conscience when you entered the lands of Dr. Thompson, late of Fort Wayne, and did more to sustain the Morris family than any other man in the State, and who called one of his sons after you? Did not the ghost of Major Lewis stare in your hypocritical face, as you were entering the home of his widow and children? Why did you enter as far as possible the lands of widows and orphans? Was it because they could not pay interest at law, or was it because you thought it a matter of expediency in regard to your personal safety? I ask you to read the remarks of the Fort Wayne Sentinel, on the subject of your attempt to rob the widows in that vicinity. Read them, and ponder. The same is true as to all your purchases. But I am satisfied that conscience never troubled you in this "business transaction!" Conscience has long since lost its power over your soul.

"Fall in with the law, and morals!" A man that would persuade a man to commit perjury! And you are the man, and here is the proof ready to be adduced in any court of justice, and if I am wrong I have property sufficient to pay for the characters of ten thousand such men. Mr. Morris issued a circular to the Treasurer of this and the adjoining counties, of similar import to that sent to Mr. Dunbar, published in the State Sentinel, in reply, one of these treasurers, Mr. Morris, that he had to swear, in making his return to the Treasurer of State, that it was the money he had received for taxes. In reply to this letter, after alluding to some other business, Morris writes as follows:

"I believe I informed you of my having sold some land, at \$24. I have sold a good deal to Treasurer, I do not mind objecting to it. It is doing no one any wrong. All the State requires is good money enough to keep the government a going, and this will be more than done this year. I can save for you the number of \$5 notes, April 2nd, to serve for the year 1846, for two years only. His term, therefore, expired on the 16th of the present month, and as these certificates were issued in his name, and under an act that was not approved until the 20th inst., when he was no longer in office, it is clear that the certificates are illegal and void. But I think they would have been void even if signed by the proper officer."

"I have signed a law, and I have signed the same subject and at the same session are to be construed in pari materia, or as one law. Now there was passed and approved at the same session, not only the State debt act which extends its indulgence and protection to all canal land purchasers for five years, but also another act, entitled, 'An act for the relief of purchasers of canal lands,' (which I believe in its present shape was written by John H. Lucas, Esq., and which provides that hereafter all Wabash and Erie canal lands, that are now or that may hereafter become forfeited for non-payment of either principal or interest, both east and west of Tippecanoe river, at the time the same may become due, under the laws in force regulating the sale of said lands, it shall be the duty of the person having charge of the land office, when the same may come for sale, as other lands are offered at public sale on the first Monday in January in each and every year, &c., first having given four weeks notice, &c., and gives the purchaser the privilege of redeeming at any time before sale. This law is also in force from and after its passage. In construing laws apparently conflicting, courts of justice first endeavor to reconcile them; if possible, they will construe them so as to give effect to both. What was the design of the Legislature? Was it to favor and relieve canal land purchasers. But this deceptive act directly conflicts with all the great leading measures of the session, which were characterized by a humane, a just and benevolent policy. I do not believe therefore that any certificates or entries of canal lands now, or hereafter issued, or made under this objectionable law, can be construed favorably and in accordance with the design of the Legislature. What was that design? Exactly to favor and relieve canal land purchasers. But this deceptive act directly conflicts with all the great leading measures of the session, which were characterized by a humane, a just and benevolent policy. I do not believe therefore that any certificates or entries of canal lands now, or hereafter issued, or made under this objectionable law, can be construed favorably and in accordance with the design of the Legislature. What was that design? Exactly to favor and relieve canal land purchasers. 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